

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested.

Claims 1-28 are pending, wherein Claims 1, 13, and 25 are independent, and independent claim 28 has been added by amendment.

Applicants would like to thank Examiner Janice A. Mooneyham for the telephone interview conducted on August 25, 2005. In compliance with M.P.E.P. § 713.04, the substance of that interview is incorporated in the foregoing amendments to the claims and in the following remarks.

Claims 1-10 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter that the Applicants regard as the invention. On page 2 of the Office Action it is alleged that the means structure in the amendment to claim 1, “means for determining whether the user is a direct customer or a travel agent” is not clear. This rejection is respectfully traversed.

Claims 13-24 are rejected under 35 U.S.C. §101 because the claimed invention is directed towards non-statutory matter. This rejection is respectfully traversed.

Claims 1-10 are also rejected under 35 U.S.C. §101 because the claimed invention is directed towards non-statutory matter. This rejection too is respectfully traversed.

Claims 1-10 and 25-26 are rejected under 35 U.S.C. §102(b) as being anticipated by *Lynch et al.* (U.S. Patent No. 6,018,715; hereinafter the “Lynch” patent). This rejection is respectfully traversed.

Claims 1-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jones *et al.* (U.S. Published Patent Application No. 2001/0156661; hereinafter the “Jones” Application) in view of Among *et al.* (U.S. Published Patent Application No. 2003/0110063; hereinafter the “Among” Application). This rejection is respectfully traversed.

Each of these rejections will now be discussed in greater detail.

I. Rejection of Claims 1-10 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter that the Applicants regard as the invention.

Claims 1-10 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter that the Applicants regard as the invention. In particular, at page 2 of the Office Action, it is alleged that the means structure in the amendment to claim 1, “means for determining whether the user is a direct customer or a travel agent” is not clear. This rejection is respectfully traversed.

According to M.P.E.P. § 2173.02, “the test for definiteness under 35 U.S.C. § 112, second paragraph, is whether ‘those skilled in the art would understand what is claimed when the claim is read in light of the specification.’” [M.P.E.P. § 2173.02 (citations omitted)] If one skilled in the art is able to ascertain the meaning of the terms used in the claim in light of the specification, 5 U.S.C. § 112, second paragraph, is satisfied. [see M.P.E.P. § 2173.02] Further, according to M.P.E.P. § 2106, discussing the requirements of 35 U.S.C. § 112, second paragraph, and computer-related inventions, “the definiteness of the language must be analyzed, not in a vacuum, but always in light of the teachings of the disclosure as it would be interpreted by one of ordinary skill in the art. Applicant’s claims, interpreted in light of the

disclosure, must reasonably apprise a person of ordinary skill in the art of the invention.”

[M.P.E.P. § 2106]

The Applicants respectfully submit that one skilled in the art of the invention would understand what is claimed when the claim is read in light of the specification. Further, the Applicants respectfully submit that one skilled in the art of the present invention can readily appreciate that the structure for “means for determining whether the user is a direct customer or a travel agent” is a personal computer (PC), that can display a request for information in the form of a graphical user interface, as run by an application program on an interconnected computer system, and accept such information and forward the same to a webserver 110.

Attention is directed towards Figs. 1-3. In Fig. 1, a flowchart is shown that represents the steps of a computer program according to an exemplary embodiment of the present invention.

“Fig. 3 illustrates an exemplary rates and reservation inquiry display, according to a preferred embodiment of the present invention.” [Specification, page 2, lines 18-19] In drawing Fig. 3, at the top of the figure, there are two boxes that request a user of the invention to identify themselves as either a “Direct Customer” or a “Travel Agent.” [Drawing Fig. 3] As described in the specification, this, and other associated similar drawing figures, are displays of the reservation system. [Specification, page 5, line 7] These displays “are presented to the user.” [Specification, page 3, line 27] Fig. 12 shows “a general hardware arrangement of the reservation system, . . . comprised of one or more personal computers (PCs) 100, a web server 110, a resort/airfare database 120, a flight data server 130, a polling workstation 140 and a central reservation system 150.” [Specification, page 12, lines 6-11] Fig. 12 clearly illustrates a user – either a direct consumer or a travel agent – interfacing with a PC 100 to input data, and viewing displayed information, or requests for information. The PCs 100

illustrate a request form that has received information from either the direct user of the travel agent, that is then forward to a webserver 110. Fig. 13 illustrates the flow of data between the hardware of the present invention. As can be seen in Fig. 13, data is transferred to/from the direct consumer and/or travel agent 100 to the webserver 110. This data transfer clearly distinguishes between a direct consumer and a travel agent.

The Applicants respectfully submit that one skilled in the art of the present invention would understand what is claimed when the claim is read in light of the specification. The Applicants respectfully submit that one skilled in the art of the present invention can readily appreciate that the structure for the “means for determining whether the user is a direct customer or a travel agent” is a PC, that can display a request for information in the form of a graphical user interface, as run by an application program on an interconnected computer system, and accept such information and forward the same to a webserver 110. The Applicants respectfully submit, therefore, that the rejection of claims 1-10, under 35 U.S.C. §112, second paragraph, is in error, and request that the rejection be withdrawn.

II. Rejection of Claims 1-10 under 35 U.S.C. §101 because the claimed invention is directed towards non-statutory matter.

Claims 1-10 are also rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed towards non-statutory matter. This rejection too is respectfully traversed. In particular, page 2 of the Office Action cites M.P.E.P. §2105 as allegedly providing the basis for the rejection of claims 1-10 under 35 U.S.C. §101.

The Applicants respectfully submit that 35 U.S.C. §101 and M.P.E.P. §2105 have been misapplied. The Applicants respectfully submit that it is erroneous to construe the

recited claim feature “means for determining whether the user is a direct customer or a travel agent,” as being the user. As described above, the correct construction of the claim feature is that the “means” is a PC, and all the attendant hardware, software and displays, as discussed in the specification. One skilled in the art of the present invention can readily appreciate, as discussed above, that the means for determining whether the user is a direct customer or a travel agent is the combination of the application software, PCs 100, and webserver 110, as well as the displays shown in Figs. 1-3. One skilled in the art of the present invention can readily appreciate that the user has to input information so that the “means for determining whether the user is a direct customer or a travel agent,” can determine whether the user is a direct customer or travel agent. As shown in Fig. 3, the user clicks one of the boxes, “Direct Customer” or “Travel Agent.” The aforementioned devices/software then ascertains the status of the user. The user uses an interface to input the information. Such an input does not render the claimed invention non-statutory under 35 U.S.C. §101. Therefore, it is respectfully submitted that this claim feature is properly directed to statutory subject matter that does not include a human being. The Applicants respectfully submit, therefore, that the rejection of claims 1-10, under 35 U.S.C. §101 is in error, and request that the rejection be withdrawn.

III. Rejection of Claims 13-24 under 35 U.S.C. §101 because the claimed invention is directed towards non-statutory matter.

Claims 13-24 are rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed towards non-statutory matter. This rejection is respectfully traversed.

In particular, at page 3 of the Office Action, it is alleged that Claims 13-24 are nonstatutory because they “only constitute *an idea* of how to make travel arrangement.” [Office Action, page 3 (emphasis added)] The Court of Appeals for the Federal Circuit determined the test for whether a claimed invention meets the requirements of 35 U.S.C. §101: The invention must produce a useful, concrete and tangible result. See *State Street Bank & Trust Co. v. Signature Financial Group Inc.*, 149 F.3d 1368, 1373. “The goal is to answer the question ‘What did the applicants invent.’” *In re Abele*, 684 F.2d 902, 907. And as set forth in the M.P.E.P. §2106, “Office personnel . . . will review the complete specification, including the detailed description of the invention, any specific embodiments that have been disclosed, the claims and any specific, substantial, and credible utilities that have been asserted for the invention.” M.P.E.P. §2106 (emphasis added).

It is clear to one of ordinary skill in the art of the present invention what the Applicants have invented: A new and useful method for making travel arrangements upon request by a user of a computer network that determines whether a user is a direct customer or a travel agent, receives travel parameters associated with a desired travel option, generates a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement, and then displays the listing of the one or more travel arrangements. Furthermore, one of ordinary skill in art of the present invention would understand that this invention produces a useful, concrete and tangible result (e.g., the travel arrangements). A review of the complete specification, including the detailed description of the invention, any specific embodiments that have been disclosed, and the claims, would lead to the reasonable conclusion that specific, substantial, and credible utilities have been asserted for the invention. For these

reasons alone, it is respectfully submitted that the rejection of claims 13-24 under 35 U.S.C. §101 is in error and should be withdrawn.

It is asserted in the Office Action that:

[m]ere intended of nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. In the present case, the language in the preamble of Claim 13 for a ‘method of making travel arrangements upon request by a user of a computer network’ is nominal or trivial use of a computer.

There is not technology in the body of the claims.”

Office Action, page 3 (emphasis added).

The Office Action asserts that “[m]ere intended of nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.” Yet the Office Action proffers no authority for this statement. According to the M.P.E.P., “[o]nly when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101. Compare *Musgrave*, 431 F.2d at 893, 167 USPQ at 289; and *In re Foster*, 438 F.2d 1011, 1013, 169 USPQ 99, 101 (CCPA 1971).” [M.P.E.P. §2106(II)(A) (emphasis added)] As the Office Action admits, there is technology in the claim: “A method for making travel arrangements upon request by a user of a computer network.” Claim 13 (emphasis added). Because there is “technology” in the claims, it would be incorrect to conclude that the claims are devoid of any limitation to a practical application in the technological arts. Therefore, for this additional reason, the Applicants respectfully submit that the rejection of claims 13-24 under 35 U.S.C. §101 is in error, and should be withdrawn.

IV. Claims 1-10 and 25-26 are rejected under 35 U.S.C. §102(b) as being anticipated by Lynch et al. (U.S. Patent No. 6,018,715; hereinafter the “Lynch” patent). This rejection is respectfully traversed.

Regarding the 35 U.S.C. §102(b) rejections, it is well known that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) [emphasis added]. The Applicants respectfully submit that Lynch does not disclose all of the features of the present invention. In particular, Lynch fails to teach or suggest the claim feature of the means for determining whether the user is a direct customer or a travel agent, as recited, for example, in claim 1 of the present application.

Independent Claim 1 recites a reservation system for making travel arrangements upon request by a user. The system comprises means for determining whether the user is a direct customer or a travel agent, means for receiving travel parameters associated with a desired travel option; means for generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement, and means for displaying the listing of the one or more travel arrangements.

Independent Claim 25 recites a reservation system for making travel arrangements upon request by a user. The system comprises a first data processing system for determining whether the user is a direct customer or a travel agent, receiving travel parameters associated with a desired travel option, generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated

with each respective travel arrangement, and displaying the listing of the one or more travel arrangements, and at least one database for storing a plurality of the travel arrangements and the associated pricing information.

Thus, each of the independent Claims 1 and 25 includes a recitation corresponding to the determination of whether the user is a direct customer or a travel agent. This feature provides the present invention with the advantage that the reservation system can tailor the information to be provided in the listing based on whether the user is a direct customer or a travel agent. In particular, this feature enables the reservation system to take into account whether or not an agency commission will be paid. In addition, there may be other travel parameters whose price or availability may depend on whether the user is a direct customer or a travel agent. For example, there may be certain travel arrangements that are available only via travel agencies, such as certain cruises. As another example, there may be certain travel arrangements that will not afford an agency commission, so the pricing information provided to the user may be affected by whether or not the user is a travel agent.

By contrast, Lynch does not disclose the claim feature of means for determining whether the user is a direct customer or a travel agent. Therefore, because each of independent Claims 1 and 25 recite the feature of determining whether the user is a direct customer or a travel agent, and because Lynch does not disclose this feature, Applicants submit that each of these claims is allowable over Lynch. On page 5 of the Office Action, Fig. 3 column 5, lines 31-35 are cited as disclosing the claim feature of means for determining whether the user is a direct customer or a travel agent. However, the entire paragraph from which this sentence has been selected is repeated below:

At block 106, in response to the travel request information,

system 10 under the control of decision engine module 16 determines the identity of the traveler, the business entity which employs the traveler (if applicable), and the travel agency of which the individual is a customer (if applicable). Preferably, if the individual for whom travel arrangements are being made is an existing customer of the travel agency, the identities of the business entity and the travel agency are accessed automatically from the relational database when the name of the individual is input into system 10. Otherwise, if the individual is a new customer, system 10 may prompt the travel agent to input information relating to the individual and his/her employer, such as, for example, the name and address of the individual, the name and address of the individual's employer, any frequent flyer or renter programs in which the individual participates, any travel services vendors preferred by the employer, etc. This individual and business entity information can be stored in database 14 for future use.

Lynch, column 5, lines 31-49 (emphasis added).

And still further:

Although the decision engine module 16 may determine the preferred travel plans for each of the individual traveler, the business entity, and the travel agency, not all of these preferences should be considered in every case. For example, if the individual traveler is traveling for personal reasons, the preferences of his or her employer should not be considered in the travel planning.

Lynch column 5, lines 56-62 (emphasis added).

A careful reading of these passages shows that Lynch does not disclose the claim feature of means for determining whether the user is a direct customer or a travel agent. Step 106 of Fig. 3 of Lynch affirms this finding. In step 106, the system determines the traveler, business entity *and* agency associations. Nowhere does Lynch ever state that the system determines *whether* the user is a direct customer or a travel agency. Instead, Lynch's system presumes that the traveler is associated with a business entity. Then – and only then – does Lynch's system start differentiating the requirements of the user, business entity and travel

agency. This is wholly different than the Applicants' claimed invention. At the outset, as recited in claim 1 (and claims 13 and 25), the system of the Applicants' claimed invention determines *whether* the user is a direct customer *or* a travel agent. By contrast, Lynch presumes that the user is a travel agent. Furthermore, there is no disclosure in Lynch to suggest that there is ever the case that an individual can use Lynch's system without the assistance of a travel agent. This is supported by the language found in column 5, lines 41-43: If the individual is a new customer, "system 10 may prompt the travel agent to input information relating to the individual and his/her employer . . ." [Lynch, column 5, lines 41-43 (emphasis added)] Also, "[w]hen travel request information is received from a specific customer (individual and/or business entity) of the travel agency, the system automatically retrieves information relating to the customer from the database and also information relating to the travel agency." [Lynch. Abstract (emphasis added)] Taken together, the totality of the evidence points to a system that never contemplates being accessed directly by an individual traveler, much less a need to determine whether the user is a direct customer *or* a travel agent. Because Lynch does not teach or suggest the claim feature of means for determining whether the user is a direct customer or a travel agent, as recited in independent claims 1, 13 and 25, Lynch cannot anticipate the Applicants' claimed invention. The Applicants' respectfully submit, therefore, that because Lynch does not teach or suggest all the claim features of Applicants' claimed invention, the rejections of claims 1 and 25 under 35 U.S.C. §102(b) is in error and should be withdrawn.

Lynch also fails to disclose the claim feature of means for generating *a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement.* Page 5 of the Office

Action cites the decision engine module 16, and column 3, lines 16-21, as disclosing the claim feature of means for generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement. Lynch states that:

In accordance with the preferred embodiment of the present invention, an automated travel planning system is preferably used to generate a recommended travel plan that balances between the preferences of a traveler, a business entity which employs the traveler (if applicable), and the travel agency making arrangements for the traveler. The travel plan may include, for example, recommendations for the travel service vendor (e.g., American Airlines, Delta Airlines, or United Airlines) which should be used, the fare class of the travel arrangements (e.g., first class, business class, or coach class), [and] seating preference (e.g., aisle or window), etc.

Lynch, column 2, lines 52-63 (emphasis added).

And further,

Decision engine module 16 functions to receive travel request information, such as a travel itinerary, input into system 10 and, in response, determines a preferred travel plan for each of a traveler, a business entity employing the traveler (if applicable), and the travel agency. The decision engine module 16 can be further used to apply weighting values to each of the traveler's, the business entity's, and the travel agency's preferred travel plans. In addition, the decision engine functions to combine the weighted travel preferences to ultimately determine a recommended travel plan or policy that is "fair" to all parties. Decision engine module 16 may use fuzzy logic in its analysis.

Lynch, column 3, lines 14-28 (emphasis added).

As described in the foregoing passage, Lynch's system takes into account each of the three entities' [traveler, business entity, and travel agent] requirements to generate three different travel plans. Then, it applies a weighting system "to ultimately determine a

recommended travel plan . . ." [Lynch, column 3, lines 14-28] Thus, the net result of Lynch's system is but one travel plan that includes information relating to travel service vendor, fare class and seating preference – but **not** pricing information. By contrast, The Applicant's claimed invention includes the feature of means for generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with the one or more respective travel arrangements. Because Lynch fails to teach or suggest a means for generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement as recited in independent claims 1, 13 and 25, Lynch does not anticipate the Applicants' claimed invention. The Applicants respectfully submit, therefore, for this additional reason, that the rejections of claims 1 and 25 under 35 U.S.C. §102(b) is in error and should be withdrawn.

Therefore, because each of independent Claims 1 and 25 recite the feature of means for generating a listing of one or more travel arrangements in accordance with the travel parameters, said listing including pricing information associated with each respective travel arrangement, and because Lynch does not disclose this feature, Applicants submit that each of these claims is allowable over Lynch. The Applicants respectfully request, therefore, that the rejection of claims 1-10 and 25-26 under 35 U.S.C. §102(b) be withdrawn.

Furthermore, because each of Claims 2-12, 26, and 27 depends from one of the aforementioned independent claims, these dependent claims are allowable over Lynch, for at least the reasons discussed above with respect to the independent claims.

In regard to claims 2-12, 26 and 27, the Office Action correctly reiterates what the M.P.E.P. §2114 and *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir.

1983) teaches us: Descriptive data will not distinguish the claimed invention from the prior art in terms of patentability. The Applicants respectfully assert, however, that what the Office Action refers to as “descriptive data” is not at all descriptive, but instead further defines the structure of the system. For example, the listing information as recited in claims 1, 13, and 25 includes a plurality of room accommodations, pricing information for the plurality of room accommodations, and pricing information for the plurality of room accommodations with one or more categories of airfare. All of this data is processed by the Applicants’ system, and this reflects data stored in a format usable by the PCs 100 and webserver 110. This data is analogous to the programming that creates a new machine. See, e.g., *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994), and *In re Lowry*, 32 F.2d 1579, 1579 (Fed. Cir. 1994) (“the claims require specific electronic structural elements which impart a physical organization on the information stored in memory.”). Similarly, the listing recited in independent Claims 1, 13, and 25 of the Applicants’ claimed invention imparts a physical organization of the “listing information: stored in memory, because “said listing including pricing information *associated* with each respective travel arrangement,” and “pricing information for the plurality of room accommodations *with one or more* categories of airfare.” As a result, because it is admitted at pages 5 and 6 of the Office Action that the features of claims 2-6 and 11 are not taught or suggested by Lynch, Lynch cannot anticipate these claims. Therefore, the Applicants respectfully submit that the rejection of Claims 2-12, 26 and 27 under 35 U.S.C. §102(b) is in error and should be withdrawn.

In regard to claim 27, Lynch does not teach or suggest either of the claim features of a second data processing system being a central reservation system, or a third data processing system being a flight data server. No specific reference is provided in the Office Action as to

which disclosure of Lynch allegedly teaches or suggests either of these features, and a careful reading of Lynch indicates that there is no such teaching or suggestion. Therefore, since Lynch does not teach or suggest either of the claim features of a second data processing system being a central reservation system, or a third data processing system being a flight data server, the Applicants respectfully submit that the rejection of claim 27 under 35 U.S.C. §102(b) is in error, and should be withdrawn.

V. Claims 1-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over Jones et al. (U.S. Published Patent Application No. 2001/0156661; hereinafter "Jones") in view of Among et al. (U.S. Published Patent Application No. 2003/0110063; hereinafter "Among"). This rejection is respectfully traversed.

The combination of Jones and Among, as suggested by the Patent Office, is improper because the proposed combination of references does not disclose all of the features of the aforementioned claims. To establish a *prima facie* case of obviousness, the prior art must disclose or suggest all of the limitations of the claims. See, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). The Applicants respectfully submit that Jones and Among, either along or in combination, fail to teach or suggest at least the claim feature of determining whether the user is a direct customer or a travel agent, as recited in independent claims 1, 13, and 25.

As understood by the Applicants, Among is directed towards providing a database and server that holds all of the various components a buyer may want to "mix and match" to produce a desired, customized tour product. As disclosed in Among, a vendor can instantly confirm and manage inventory for all selected sub-options of any components sold by the vendor, which enables a quick and easy electronically ticketed transaction. The system of

Among gives a potential buyer the ability to instantly mix and match sub-options for various components, and then easily mix and match additional sub-options for other components to compare price conveniently. A buyer can book a customized tour product which includes multiple destinations. This capability allows for multiple air reservation bookings in conjunction with other "package" inventory such as hotel and car at each destination.

As understood by the Applicants, Jones is directed towards a travel system for processing travel requests based on a user's travel destination goal such as a meeting place and time. The travel system selects a destination terminal, if one is not provided, and estimates a travel time between the destination terminal and the destination goal. An itinerary is then built interactively with the user selecting air, bus or train transportation, ground transportation, and, optionally, hotels, restaurants, and activities.

As acknowledged by the Patent Office, nowhere does Jones teach or suggest the feature of determining whether the user is a direct customer or a travel agent. Office Action, page 8. On page 8 of the Office Action it is alleged that "Among discloses the step of determining ([during] login) whether is [sic] the user is a direct customer or a travel agent (Figure 1 (1010), Figure 3 (300) page 5 [0052])" The Applicants respectfully submit that the cited passage of Among does not teach or suggest the claim feature of determining whether the user is a direct customer or a travel agent. Referring to Fig. 1, item 101 represents a customer login. In Fig. 3, item 300, the customer is directed to input resident state, name and other login information. A careful inspection of Figs. 1 and 3 reveals that there is simply no mention whatsoever of any means for determining *whether* the user is a direct customer or a travel agent. Finally, the Office Action cites paragraph 52 of Among, which is reproduced in its entirety below:

Another embodiment of the present invention allows for the tracking of sales by an individual or by an entity. An individual may enroll online in an incentive program and receive special access to the site via a login name and password. In addition to receiving special offers from participating vendors, the members can track sales and receive incentive points for rewards and prizes. Travel agents can manage pending reservations, commission payments, cancellations and incentive points online, including a running tally of total incentive points earned and a list of potential rewards. Further, an organization or corporation may track sales to earn incentive rewards and prizes from the participating vendors, as well as monetary incentives based on a percentage of sales. All pertinent information is presented only to the specific entity logged in to the site with a valid login and password.

Among, paragraph 52 (emphasis added).

The foregoing passage indicates that Among teaches the use of an incentive program.

Each entity that uses the system of Among is given a password and login information.

Among does not teach or suggest, however, a travel reservation system that can determine *whether* the user is a direct customer or a travel agent. In particular, Among fails to teach or suggest any means for distinguishing between a direct customer and a travel agent when making travel arrangements, in contrast with the Applicants' claimed invention.

Thus, the Applicants respectfully submit that Among or Jones, alone or in combination, fails to teach or suggest the claim feature of determining *whether* the user is a direct customer or a travel agent as recited in independent claims 1, 13 and 25. Because the cited combination of references fails to teach or suggest each and every claim feature as required, it is respectfully submitted that the rejection of claims 1, 13, and 25 under 35 U.S.C. §103(a) is in error and should be withdrawn.

The Applicants respectfully submit that the combination of Jones with Among is wholly and completely improper. According to M.P.E.P. § 2143, to establish a *prima facie*

case of obviousness, three basic criteria must be met. “First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.”

[M.P.E.P. § 2143] In other words, “[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. . . . See also *In re Lee*, 277 F.3d 1338, 1342-44, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002) (discussing the importance of relying on *objective* evidence and making specific *factual* findings with respect to the motivation to combine references); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).” [M.P.E.P. § 2143.01 (emphasis added)] Furthermore, “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990).

On page 8 of the Office Action, it is asserted that “it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Among with disclosure of Jones since this allows for tracing of sales by an individual or by an entity and aids travel agents in managing commission payments.” [Office Action, page 8] This statement, however, fails to provide any objective rationale from the references themselves for combining Jones with Among.

Furthermore, the Office Action’s stated motivation for combining Jones with Among is not legally sufficient because it does not lead to Applicants’ claimed invention by the

Applicants. As admitted on page 8 of the Office Action, Among teaches tracing of sales by an individual and aiding travel agents in managing commission payments. Among, however, is an incentive-based travel system, not a reservation system for making travel arrangements upon request by a user with means for determining *whether* the user is a direct customer or a travel agent. As noted in the M.P.E.P. §2143.01, “If the proposed modification or combination of the prior art would *change the principle of operation* of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).” [M.P.E.P. §2143.01] The Applicants respectfully submit that combining Jones and Among would change the principle of operation of Among from being an incentive based travel system to being a reservation system for making travel arrangements that can determine whether the user is a direct customer or a travel agent. Consequently, it is respectfully submitted that the Patent Office has not established a *prima facie* case of obviousness, and therefore the rejection of Claims 1-27 under 35 U.S.C. §103(a) is in error, and should be withdrawn.

Dependent claims 2-12, 14-24, 26 and 27 variously depend from independent claims 1, 13 and 25, and are, therefore, patentably distinguishable over the combination of Jones and Among for at least those reasons stated above with regard to independent claims 1, 13 and 25.

In reference to claims 4 and 16, it is respectfully submitted that the combination of Jones and Among does not teach or suggest the claim feature of the listing providing information relating to whether children are allowed at the named accommodation. As admitted in the Office Action on page 9, neither Jones nor Among teaches or suggests the claim feature of the listing providing information relating to whether children are allowed at the named accommodation.

Thus, the Applicants respectfully submit that Among or Jones, alone or in combination, fails to teach or suggest the claim feature of the listing providing information relating to whether children are allowed at the named accommodation as recited in dependent claims 4 and 16. Because the cited combination of references fails to teach or suggest each and every claim feature as required, it is respectfully submitted that the rejection of claims 4 and 16 under 35 U.S.C. §103(a) is in error and should be withdrawn. Furthermore, because the Office Action fails to provide a motivation to combine the references, the rejection of dependent claims 4 and 16 under 35 U.S.C. §103(a) is in error and should be withdrawn.

In reference to claims 6 and 18, it is respectfully submitted that the combination of Jones and Among does not teach or suggest the claim feature of the pricing information associated with the one or more categories of airfare being provided without regard to availability of seating. As admitted in the Office Action on page 10, neither Jones nor Among teaches or suggests the claim feature of said pricing information associated with the one or more categories of airfare is provided without regard to availability of seating.

Thus, the Applicants respectfully submit that Among or Jones, alone or in combination, fails to teach or suggest the claim feature of the pricing information associated with the one or more categories of airfare being provided without regard to availability of seating as recited in dependent claims 6 and 18. Because the cited combination of references fails to teach or suggest each and every claim feature as required, it is respectfully submitted that the rejection of claims 6 and 18 under 35 U.S.C. §103(a) is in error and should be withdrawn. Furthermore, because Among or Jones, alone or in combination, fails to teach or suggest the claim feature of the pricing information associated with the one or more categories of airfare being provided without regard to availability of seating, the motivation to

combine the references is not legally sufficient. For this reason also, therefore, the Applicants respectfully submit that the rejection of claims 6 and 18 under 35 U.S.C. §103(a) is in error and should be withdrawn.

In reference to claims 7 and 19, it is respectfully submitted that the combination of Jones and Among does not teach or suggest the claim feature of accessing an associated computer network to determine the availability of seating, after selection of a listed travel arrangement. As admitted in the Office Action on page 10, neither Jones nor Among teaches or suggests the claim feature of accessing an associated computer network to determine the availability of seating, after selection of a listed travel arrangement.

Thus, the Applicants respectfully submit that Among or Jones, alone or in combination, fails to teach or suggest the claim feature of the pricing information associated with the one or more categories of airfare being provided without regard to availability of seating as recited in dependent claims 7 and 19. Because the cited combination of references fails to teach or suggest each and every claim feature as required, it is respectfully submitted that the rejection of claims 7 and 19 under 35 U.S.C. §103(a) is in error and should be withdrawn. Furthermore, because Among or Jones, alone or in combination, fails to teach or suggest the claim feature of accessing an associated computer network to determine the availability of seating, after selection of a listed travel arrangement, the motivation to combine the references is not legally sufficient. For this reason also, therefore, the Applicants respectfully submit that the rejection of claims 7 and 19 under 35 U.S.C. §103(a) is in error and should be withdrawn.

In reference to claims 12 and 24, it is respectfully submitted that the combination of Jones and Among does not teach or suggest the claim feature of generating a confirmed travel

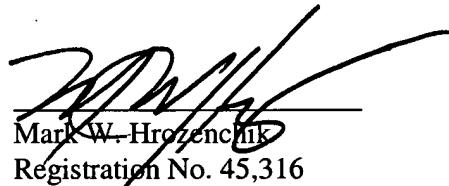
arrangement without receipt of payment for the travel arrangement, the confirmed travel arrangement including information relating to a net amount of money due from the user, wherein when the user is a travel agent, the net amount of money due is reduced by an amount of an agency commission. As admitted in the Office Action on page 10, neither Jones nor Among teaches or suggests the claim feature of generating a confirmed travel arrangement without receipt of payment for the travel arrangement, the confirmed travel arrangement including information relating to a net amount of money due from the user, wherein when the user is a travel agent, the net amount of money due is reduced by an amount of an agency commission.

Thus, the Applicants respectfully submit that Among or Jones, alone or in combination, fails to teach or suggest the claim feature of generating a confirmed travel arrangement without receipt of payment for the travel arrangement, the confirmed travel arrangement including information relating to a net amount of money due from the user, wherein when the user is a travel agent, the net amount of money due is reduced by an amount of an agency commission as recited in dependent claims 12 and 24. Because the cited combination of references fails to teach or suggest each and every claim feature as required, it is respectfully submitted that the rejection of claims 12 and 24 under 35 U.S.C. §103(a) is in error and should be withdrawn. Furthermore, because the Office Action fails to provide any motivation to combine the references, the rejection of dependent claims 12 and 24 under 35 U.S.C. §103(a) is in error and should be withdrawn.

All of the rejections and objections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a notice to that effect is earnestly solicited.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3500. All correspondence should be directed to our address given below.

Respectfully submitted,



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